

laboratories of the both the Hospital and the University was the responsibility of KUMC, pursuant to a service agreement between the University of Kansas Hospital Authority and KUMC.

4. KUMC admits that, pursuant to Section 76-712 of the Kansas Statutes, Annotated ("K.S.A."), it is a state institution, controlled by and operated and managed under the supervision of the Kansas Board of Regents.

5. KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Complaint, and therefore, denies the same.

6. KUMC admits that it has been assigned the EPA Facility Identification Number KSD076274737.

7. KUMC admits that on or about March 15-17, 2006, an EPA representative conducted a Compliance Evaluation Inspection ("CEI") at KUMC.

8. KUMC admits that at the time of the inspection, it was operating as an "EPA Generator." To the extent that the rest of the allegations in Paragraph 8 purport to recite laws or regulations, no response is required. To the extent a response is required, KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

COUNT 1
FAILURE TO CONDUCT A HAZARDOUS WASTE DETERMINATION

9. KUMC repeats and incorporates, as if fully set forth herein, each and every response to the preceding paragraphs 1 through 8.

10. To the extent that Paragraph 10 of the Complaint purports to recite laws or regulations, no response is required. To the extent a response is required, KUMC is without

knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

11. KUMC presents the following responses to the allegations in Paragraph 11 of the Complaint:

- a. KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11(a) of the Complaint, and therefore, denies the same.
- b. KUMC denies the allegations in Paragraph 11(b) of the Complaint. Histoclear waste is and was known to KUMC to be a hazardous waste; although marked as "Histoclear waste," the word "hazardous" was not on the label.
- c. KUMC admits that, on the relevant date, it stored 4 containers of waste in Lied 1007 without conducting a waste determination.
- d. KUMC denies the allegations in Paragraph 11(d) of the Complaint. Bouin's waste is and was known to KUMC to be hazardous waste.
- e. KUMC denies the allegations in Paragraph 11(e) of the Complaint. The materials identified were in use and available for use, and are not "solid waste."
- f. KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11(f) of the Complaint, and therefore, denies the same.
- g. KUMC denies the allegations in Paragraph 11(g) of the Complaint. The materials identified were in use and available for use, and are not "solid waste."
- h. KUMC denies the allegations in Paragraph 11(h) of the Complaint. Arsenic waste is and was known to KUMC to be a hazardous waste; although marked as "arsenic waste," the word "hazardous" was not on the label.
- i. KUMC denies the allegations in Paragraph 11(i) of the Complaint. Organic wastes are and are known to KUMC to be hazardous; although marked as "organic waste," the word "hazardous" did not appear on the labels.
- j. KUMC denies the allegations in Paragraph 11(j) of the Complaint. The materials identified were in use and available for use, and are not "solid waste."
- k. KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11(k) of the Complaint, and therefore, denies the same.

12. To the extent that Paragraph 12 of the Complaint purports to recite laws or regulations, no response is required. To the extent a response is required, KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

13. To the extent that Paragraph 13 of the Complaint is a statement of EPA's position on a civil penalty, no response is required. To the extent a response is required, KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

COUNT 2
OPERATING AS A TREATMENT, STORAGE, OR DISPOSAL FACILITY WITHOUT
RCRA PERMIT OR RCRA INTERIM STATUS

14. KUMC repeats and incorporates, as if fully set forth herein, each and every response to the preceding paragraphs 1 through 13.

A. Storing Hazardous Waste Longer than 90 Days

15. To the extent that the allegations in Paragraph 15 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

16. To the extent that the allegations in Paragraph 16 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

17. KUMC admits that on or about March 15-17, there was a 55-gallon drum of F003 waste with an accumulation start date of October 27, 2005 located in Building #25. KUMC further admits that the container was located on-site until March 24, 2006.

18. KUMC admits that it did not have a permit to operate a "hazardous waste storage facility." To the extent the remainder of the allegations contained in this paragraph purport to recite laws or regulations or constitute conclusions of law, no response is required.

19. This paragraph sets forth conclusions of law to which no response is required. To the extent that the allegations in this paragraph refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

B. Failure to Comply with the Generator Requirements

20. To the extent that the allegations in Paragraph 20 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

21. To the extent that the allegations in Paragraph 21 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

C. Labeling Hazardous Waste Containers

22. To the extent that the allegations in Paragraph 22 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

23. KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of the Complaint, and therefore, denies the same.

D. Accumulation Start Date

24. To the extent that the allegations in Paragraph 24 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

25. KUMC admits that some containers of hazardous waste at the facility were not marked with an accumulation start date, but is without sufficient knowledge to admit or deny the remaining specific allegations in Paragraph 25 of the Complaint.

26. To the extent that Paragraph 26 of the Complaint purports to recite laws or regulations, no response is required. To the extent a response is required, KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

27. KUMC admits that it did not have a permit to operate a "hazardous waste storage facility." To the extent the remainder of the allegations contained in this paragraph purport to recite laws or regulations, no response is required.

28. This paragraph sets forth conclusions of law to which no response is required. To the extent that the allegations in this paragraph refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

E. Failure to Comply with Satellite Accumulation Requirements

29. To the extent that the allegations in Paragraph 29 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

30. To the extent that the allegations in Paragraph 30 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

31. To the extent that the allegations in Paragraph 31 of the Complaint refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

32. KUMC admits that on or about March 15-17, 2006, approximately 24 satellite accumulation containers were marked as "waste" or words to that effect, however not labeled as "HAZARDOUS WASTE." KUMC further admits that these containers were located in the

specific buildings as set forth in the Complaint. To the extent the remainder of the allegations contained in this paragraph purport to recite laws or regulations, no response is required.

33. This paragraph sets forth conclusions of law to which no response is required. To the extent that the allegations in this paragraph refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

34. KUMC admits that it did not have a permit to operate a “hazardous waste storage facility.” To the extent the remainder of the allegations contained in this paragraph purport to recite laws or regulations, no response is required.

35. This paragraph sets forth conclusions of law to which no response is required. To the extent that the allegations in this paragraph refer to statutes and regulations, those sources speak for themselves, and any characterizations thereof are denied.

36. To the extent that Paragraph 36 of the Complaint is a statement of EPA's position on a civil penalty, no response is required. To the extent a response is required, KUMC is without knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore, denies the same.

REQUEST FOR PUBLIC HEARING

KUMC requests a public hearing to resolve the above-mentioned issues.

Respectfully submitted,

SHOOK, HARDY & BACON L.L.P.

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ATTORNEYS FOR UNIVERSITY OF
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CERTIFICATE OF SERVICE

I certify that on the 6th day of November, 2006, a copy of the aforementioned document was sent via hand delivery & mail to the following:

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